IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1236 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT THROUGH DY.CONSERVATOR OF FOREST

Versus

BHAILALBHAI HANSRAJBHAI PATEL

Appearance:

MR KP RAVAL, APP. for Petitioner

HL PATEL ADVOCATES for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 07/07/2000

ORAL JUDGEMENT

The truck of the respondent was ordered to be confiscated by the Deputy Conservator of Forest, Himmatnagar as it was found involved in commission of the

forest offence. The respondent who was the owner of the truck preferred appeal against the order of confiscation before the learned Sessions Judge, Sabarkantha at Himmatnagar, (Criminal Appeal No.41 of 1986). The learned Sessions Judge by his judgment and order dated 24.10.1996 set aside the order of confiscation after recording the finding that it was not proved that the owner of the truck had any knowledge that his truck was likely to be used for any illegally cut timber. Being aggrieved by the said judgment and order, the State of Gujarat has filed Special Criminal Application.

The learned Counsel for the respondents cited the decision of the Supreme Court in Assistant Forest Conservator Vs. Sharad Ramchandra Kale (AIR 1998 SC 2927), in which the order of confiscation was set aside by the High Court on the ground that the authorities had failed to establish that the owner of the truck had any knowledge that his truck was likely to be used for carrying forest produce in contravention of the provisions of the Forest Act and in view of the said finding the Supreme Court observed that the finding was based upon the evidence on record and declined to interfere with the same. In the present case also, the finding recorded by the learned Sessions Judge is based upon appreciation of evidence and there is no reason to interfere with the same in exercise of writ jurisdiction. The petition therefore fails and is accordingly dismissed. Rule is discharged.

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m.m.bhatt